



OFFICER REPORT TO COUNCIL

CONSTITUTIONAL CHANGES

KEY ISSUE/DECISION:

The Council's Constitution sets out the rules and procedures for both executive (Cabinet) and non-executive (Council) decision making. In light of the national situation around coronavirus and in preparation for any special arrangements that may be required in order to allow council business to continue, Council are asked to authorise the Chief Executive and Monitoring Officer to make the necessary amendments as set out in this report, to the Constitution.

Members will still be accountable and responsible for decision making and it is proposed that this continues so far as possible. Where it is not possible to hold a Cabinet or committee meeting, any notice will still be published, any reports will still be provided and members will be fully involved in contributing to consideration of the issues. If a formal decision is required this will be made through a delegation to an individual Cabinet member or officer and where appropriate call in procedures will apply.

A protocol will be developed and will take into account other democratic procedures such as questions and petitions.

DECISION MAKING:

Executive (Cabinet) decision making and Scrutiny

The Leader has authority to make any executive decision and may delegate to Cabinet, individual Cabinet Members or officers as the Leader considers necessary for the proper management of council business.

While the Leader is able to amend the delegations with the Leader's Scheme of Delegation, the Council's Financial Regulations and Procurement Standing Orders set out the thresholds for decision making and provide that some decisions need to be made collectively by Cabinet.

To provide for ongoing decision making in areas such as procurement, property and budget virements it is proposed that Council agrees to amend the Financial Regulations and other rules so that any reference to Cabinet requires either a formal Cabinet meeting or the Leader or nominated Cabinet Member individually making a decision in consultation with two other Cabinet Members (a quorum of Cabinet).

Any individual decision will be made as a formal decision of a Cabinet Member with full public notice and the right to scrutinise. All executive decision (unless under special urgency) will be subject to call in procedures.

If an item is called in it will be considered in a virtual manner by committee members in with the protocol that will be developed.

Non-executive decision making

Council has responsibility for non-executive decision making and has delegated some function to committees and officers e.g. planning and regulatory committee and audit and governance committee.

It is proposed that all non-executive decision making is delegated to officers (as far as the law allows). These delegations will only be used on a case by case basis and following agreement of the chairman or nominated member of the relevant regulatory committee.

Urgent decisions

The Council already has arrangements in place for decisions that need to be made in cases of special urgency. Standing orders enable the Chief Executive to act on behalf of the organisation in consultation with the Section 151 Officer and Monitoring Officer and Cabinet Members as appropriate.

Non-attendance at council meetings

Section 85(1) of the Local Government Act 1972 states that all councillors must attend a committee meeting of the council within a six month period unless the failure was due to a reason approved by the local authority.

Council is asked to resolve that special dispensation is granted to all members for any non-attendance at meetings for virus related reasons to the end of December 2020.

Appointment of chairmen and committees

In default of further council decisions, Council is asked to approve that any existing appointments of chairmen, vice-chairmen and committee members continues in accordance with the wishes of the political groups.

Emergency Legislation

The Council is aware that the Government is looking at options regarding the introduction of emergency legislation to allow meetings to take place virtually and awaits further detail on this. When guidance has been made available this will be incorporated into the protocol for meetings and communicated to Members.

RECOMMENDATIONS:

1. To amend the definition within the Council's Constitution (as far as the law allows) to define Cabinet as a formal meeting of Cabinet **or** the

Leader or nominated Cabinet Member making a decision in consultation with at least two other Cabinet Members.

2. To delegate all non-executive decisions (as far as the law allows) to the relevant proper officer in consultation with the relevant chairman or member nominated by the chairman.
3. To agree that any member unable to attend a council meeting for a period greater than six months for virus related reasons, receives a dispensation further to section 85(1) of the Local Government Act 1972 to December 2020.
4. To resolve that a protocol be agreed with the Chairman of the Council and group leaders to set out the arrangements for decision making with committee members prior to any officer decision usually referred to committee. Protocol to include:
 - a) Notice and reports for the public and committee members
 - b) Any representations from members on decisions
 - c) Arrangements for 'virtual' meetings, discussions or recommendations from members of the committees/members of the public/other councillors.
5. To agree that the Audit and Governance Committee will monitor the use of the protocol and make recommendations on any required amendments to the protocol to ensure that Members remain informed in relation to council decision making.
6. To authorise the Monitoring Officer in consultation with the Chairman of the Council and group leaders to incorporate any legislative changes issued by Government into council business processes.
7. To agree existing chairmen, vice-chairmen and committee appointments continue in line with political group wishes.
8. To review these measures at the 13 October 2020 meeting of the Council or as soon as practicable thereafter as determined by the Audit and Governance Committee.

Lead/Contact Officers:

Paul Evans, Director of Law and Governance

Email: paul.evans@surreycc.gov.uk tel: 02082132584

Sources/background papers:

Constitution of the Council

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